

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

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In the matter of )  
 )  
Amendment of § 73.202(b) )  
 )  
Table of Allotments )  
FM Broadcast Station )  
(Cordova, Alabama) )

MM DKT 94-41  
RM - 8443

**RECEIVED**

**JUL 14 1994**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Directed to: Acting Chief, Allocation Branch

**COMMENTS**

Haleyville Broadcasting Company, Inc. ("Haleyville"), by its attorneys and pursuant to the Commission's Notice of Proposed Rulemaking (NPRM), DA 94-427, MM Docket No. 94-41, RM-8443, released May 31, 1994, hereby files its comments in support of the NPRM. Specifically, Haleyville supports the proposal for allotment of Channel 237A at Cordova, Alabama. In support thereof, the following is stated:

As the NPRM reflects, Petitioner currently operates WFFN(FM) Cordova, Alabama, on Channel 237A, but would be required as a result of a prior action in DKT-90-476 to change its operating channel to Channel 223A. (See ¶ 2 of NPRM). Petitioner seeks to continue operating WFFN(FM) on Channel 237A and accordingly, proposes Channel 237A for use by WFFN(FM) at Cordova. Haleyville Broadcasting Company, Inc., licensee of WJBB-FM at nearby Haleyville, Alabama, supports the Petitioner's proposal. As indicated herein, operation of WFFN(FM) on Channel 223A would

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disrupt WJBB-FM's signal and impair service to listeners of both Stations WJBB-FM and WFFN(FM).

Station WJBB-FM operates on Channel 224A at Haleyville, Alabama, and has been serving that community and the surrounding area for many years. As reflected in the attached Declaration of Haleyville Broadcasting Company, Inc.'s President, Radio South previously operated on WFFN(FM) on Channel 225A at Cordova, causing severe interference to WJBB-FM operating on Channel 224A. Specifically, WJBB-FM's signal was blocked or distorted in the communities along Highway 5 in or around Lyn, Alabama, and along Highway 195 between Double Springs and Jasper, Alabama. Radio South experienced similar problems.<sup>1/</sup>

As a result of its past experience with interference from Radio South's signal on Channel 225A, Haleyville Broadcasting Company, Inc. has every reason to expect similar problems if Radio South operates Station WFFN(FM) on Channel 223A, which like Channel 225A, is only one channel away from WJBB-FM's Channel 224A. Thus, listeners in Station WJBB-FM's traditional service area would no longer be able to clearly receive the station's signal and likewise Station WFFN(FM)'s listeners can be expected to have reception problems as well.

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<sup>1/</sup> Haleyville Broadcasting Company, Inc. raised these considerations in 1992 in Docket 90-476 through a petition for reconsideration. Attachment 1 hereto is the declaration from that petition, and is offered here in support of Haleyville Broadcasting Company, Inc.'s comments.

Consequently, Haleyville Broadcasting Company, Inc. urges the Commission to adopt the alternative proposal of allowing Radio South to operate on Channel 237A at Cordova as a solution which would best serve the "public interest." Under these circumstances, not only would Radio South be able to "expand its coverage area," but also, WJBB-FM will be able to provide service to its listeners without interference and disruption. The Commission has recognized the importance of the consideration of service:

In Eaton and Sandy Springs, Georgia, 70 R.R. 2d 182, 190 (1991), and citing Community Modifications II, 5 FCC Rcd. 7094, 7097 (1990), and citing Hall vs. FCC, 237 F.2d 567 (1956), the Commission found "That . . . curtailment of service is not in the public interest is axiomatic," and further that "the public has a legitimate expectation that existing service will continue." 70 R.R. 2d at 190. The listeners of both Station WJBB-FM and Station WFFN(FM) should continue to experience and receive the radio service from these two FM stations without degradation.

For the foregoing reasons, Haleyville Broadcasting Company, Inc. supports the Commission's proposal reflected in its May 31, 1994, Notice of Proposed Rulemaking and respectively urges the Commission to substitute Channel 237A for 223A at Cordova, Alabama.

Respectfully submitted,

**HALEYVILLE BROADCASTING COMPANY, INC.**

By:

A handwritten signature in dark ink, appearing to read "M. Scott Johnson", written over a horizontal line.

M. Scott Johnson  
Its Attorney

Gardner, Carton & Douglas  
1301 K Street, N.W., Suite 900  
Washington, DC 20005

(202) 408-7122

July 14, 1994

**DECLARATION**

I, John L. Slatton hereby declare under penalty of perjury that the facts recited below are true and correct:

1. I am the President of Haleyville Broadcasting Co., Inc. ("Haleyville") which is the licensee of Station WJBB-FM, operating on Channel 224A at Haleyville, Alabama.

2. Station WJBB has been serving the needs and interests of Haleyville and the surrounding area for over ten years.

3. It is my belief that the allotment of Channel 223A to Cordova will cause interference to WJBB's traditional service in Winston County, similar to the problems we experienced when Channel 225A was allocated to Cordova.

4. Prior to operating on Channel 227A at Cordova, Radio South, Inc. ("Radio South") operated on Channel 225A. During the time that Radio South operated on that channel, WJBB experienced significant interference with its signal from Radio South's station. We received numerous complaints from listeners in Lynn, Alabama, as well as from listeners in other communities along Highway 5. We investigated these complaints and verified that our signal was indeed blocked or distorted by Channel 225A. Furthermore, listeners along Highway 195 between Double Springs and Jasper, Alabama, also experienced interferences to WJBB's signal.

5. I recall that Radio South suffered similar problems as a result of the proximity of the channels. Radio South's signal was distorted by WJBB within two to five miles northwest of Jasper, along both Highway 5 and Highway 195.

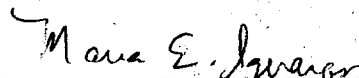
1 OCT 92  
Date

  
John L. Slatton

**CERTIFICATE OF SERVICE**

I, Maria E. Iguaran, a secretary in the law offices of Gardner, Carton & Douglas, do hereby certify that a true copy of the foregoing was sent July 14, 1994, by first-class mail, postage prepaid to the following:

Erwin G. Krasnow, Esquire  
Verner Liipfer Bernhard  
McPherson & Hand, Chartered  
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Washington, DC 20005

  
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Maria E. Iguaran